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April 12, 2006

VIA U.S. EXPRESS MAIL

United States Patent and Trademark Office
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Re: *Laurice El Badry Rahme Ltd. v. Asprey Holdings Limited Corp.*
Opposition No. 91167945

76/570501

Dear Sir or Madam:

Enclosed for filing in this matter is Applicant/Petitioner's Motion and Brief for Summary Judgment on Counterclaim for Cancellation.

Respectfully submitted,

Terence A. Dixon

Enclosures

cc: George Gottlieb, Esq. (w/encl)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

LAURICE EL BADRY RAHME LTD. (dba LAURICE & CO),	:	
Opposer/Registrant,	:	
v.	:	Opposition. No. 91167945
ASPREY HOLDINGS LIMITED CORP.,	:	
Applicant/Petitioner.	:	

APPLICANT/PETITIONER'S MOTION AND BRIEF FOR SUMMARY JUDGMENT ON COUNTERCLAIM FOR CANCELLATION

Applicant/Petitioner, Asprey Holdings Limited Corp., ("Petitioner") hereby respectfully requests and moves that in accordance with Rule 56(b) of the Federal Rules of Civil Procedure and Rule 2.127(e) of the Trademark Rules, the Board grant summary judgment in its favor with respect to its counterclaim to cancel Registration No. 2,742,675, which Opposer/Registrant, Laurice El Badry Rahme Ltd. (dba Laurice & Co.), ("Registrant") has pled in support of its Notice of Opposition in this proceeding. In addition, pursuant to Rule 2.127(d) of the Trademark Rules, Petitioner respectfully requests and moves that the Board suspend this proceeding with respect to all matters not germane to this motion pending the Board's determination.

I. Introduction

There is no factual dispute with respect to Petitioner's counterclaim for cancellation. Indeed, Registrant has admitted all the relevant factual allegations underpinning Petitioner's claim that Registration No. 2,742,675 was secured by means of fraud on the Trademark Office. Specifically Registrant has acknowledged that although it submitted a sworn declaration signed by

its President in support of the statement of use for Serial No. 75/981,311 alleging use of the mark in commerce for all the goods listed in Notice of Allowance, Registrant had not used -- and indeed has never used -- the mark on any of the Class 25 goods listed in the application. It is well established under the precedents of this Board that the submission of such an inaccurate declaration is a material representation that the Registrant knew or should have known was false and as such, constitutes fraud on the Trademark Office. It is equally well established that such fraud renders the resulting registration void *ab initio* in its entirety and that the taint of fraud cannot be excised by a subsequent amendment to delete goods covered by the registration. As such, Petitioner is plainly entitled to judgment as a matter of law that Registrant's registration was fraudulently obtained, was void *ab initio* and should be cancelled in its entirety.

II. Procedural Background

On November 9, 2005, Registrant filed a Notice of Opposition against Petitioner's application Serial No. 76/570,501. The Notice of Opposition pled Registrant's Registration No. 2,742,675 as a basis for its allegations of likelihood of confusion under Section 2(d). On January 20, 2006, Petitioner filed a timely Answer and Counterclaim. The counterclaim was asserted pursuant to 37 C.F.R. § 2.106(b)(2) and sought cancellation of Registration No. 2,742,675 on the ground that the registration was procured through fraud on the Trademark Office. On March 27, 2006, Registrant filed its Answer to Counterclaim for Cancellation admitting essentially all of the factual allegations in the counterclaim. In accordance with the notice from the Board issued on February 24, 2006, the first testimony period is scheduled to open on August 31, 2006. Consequently, Applicant's motion for summary judgment is timely as provided for in 37 C.F.R. § 2.127(e)(1). *See* TBMP § 528.02. In addition, since Registrant has pled Registration No.

2,742,675 in the Notice of Opposition, Petitioner clearly has inherent standing to petition to cancel that registration. *See* TBMP § 309.03(b).

III. Undisputed Facts

The following is a summary of the undisputed facts that are material to this motion:

1. On February 28, 2001, Registrant filed an intent-to-use application under Section 1(b) of the Trademark Act to register the mark BOND NO. 9 on the Principal Register. The application was designated Serial No. 75/981,311. Counterclaim ¶ 1; Answer to Counterclaim ¶ 1.

2. A Notice of Allowance for application Serial No. 75/981,311 covering "fragrances, namely, perfumes, colognes and room fragrances" in Class 3 and "clothing, namely, dresses, skirts, pants, blazers, scarves and neckties" in Class 25 was issued on October 8, 2002. Counterclaim ¶ 2; Answer to Counterclaim ¶ 2.

3. On March 24, 2003, Registrant filed a Statement of Use Under 37 CFR 2.88, with Declaration for application Serial No. 75/981,311 alleging use of the mark in commerce for "[t]hose goods/services identified in the Notice of Allowance in this application." The Statement of Use alleged use in commerce since at least as early as October 28, 2002 for the goods in Class 3 and at least as early as December 31, 2002 for the goods in Class 25. The declaration was signed by Laurice Rahme, President of Registrant, and was dated March 19, 2003. The Statement of Use was submitted by counsel for Registrant in this proceeding. Counterclaim ¶ 3; Answer to Counterclaim ¶ 3. (Although the registration file for Registrant's registration is automatically of record pursuant to 37 C.F.R. § 2.122(b) , a copy of the Statement of Use is attached hereto as Exhibit A for the convenience of the Board).

4. The declaration signed by Ms. Rahme that accompanied the Statement of Use for Serial No. 75/981,311 contained the following statement: "The undersigned being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this Statement of Use on behalf of Applicant; he/she believes Applicant to be the owner of the mark sought to be registered, the trademark service mark is now in use in commerce; and all statements made of her own knowledge are true and all statements made on information and belief are believed to be true." *See* Exhibit A.

5. The Statement of Use for Serial No. 75/981,311 was accompanied by labels that were submitted as alleged specimens of use. Those submissions were captioned "Class 3" and "Class 25." *See* Exhibit A.

6. A registration on application Serial No. 75/981,311 subsequently issued on July 29, 2003 as Registration No. 2,742,675. Counterclaim ¶ 4; Answer to Counterclaim ¶ 4.

7. On March 19, 2003 (the date on which Ms. Rahme signed the declaration), Registrant was not using the mark BOND NO. 9 in commerce on any of the Class 25 goods specified in the Notice of Allowance for application Serial No. 75/981,311. Indeed, Registrant has never used the mark BOND NO. 9 in commerce on any of the Class 25 goods specified in the Notice of Allowance for application Serial No. 75/981,311. Counterclaim ¶¶ 8 and 10; Answer to Counterclaim ¶¶ 8 and 10.

8. On September 1, 2005, Registrant filed an Application for Amendment of Registration Under C.F.R. Section 2.173 with respect to Registration No. 2,742,675 requesting that the registration be amended "by deleting Class 25 in its entirety from the identification of goods in

the Registration so that the Registration is limited solely to Class 3." The declaration contained within that filing was signed by Ms. Rahme and dated August 29, 2005. The Application for Amendment of Registration was submitted by counsel for Registrant in this proceeding. Counterclaim ¶ 6; Answer to Counterclaim ¶ 6. (For the convenience of the Board, a copy of the Application for Amendment of Registration is attached hereto as Exhibit B).

9. The full identification of goods, including the Class 25 goods on which Registrant had never used the mark in commerce, was included on the certificate of registration for Registration No. 2,742,675 that was issued to Registrant on July 29, 2003. However, Registrant did not file its Application for Amendment of Registration until more than 25 months after the registration issued.

10. Registrant's Application for Amendment of Registration was filed 22 days after Registrant filed its initial request for an extension of time to oppose Petitioner's application Serial No. 76/570,501. Counterclaim ¶ 6; Answer to Counterclaim ¶ 6.

IV. Argument

A. Summary Judgment Is Appropriate.

Summary judgment is appropriate when there are no genuine issues as to any material fact and the moving party is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(c); *see Celotex Corp. v. Catrett*, 477 U.S. 317 (1987). Once a motion for summary judgment is properly made and supported by appropriate evidence that would entitle the moving party to judgment as a matter of law, the non-moving party has the burden of showing that a genuine and material factual dispute exists for trial. *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586-87 (1986); *Copelands' Enterprises Inc. v. CNV, Inc.*, 945 F.2d 937, 20 U.S.P.Q.2d 1295 (Fed. Cir. 1991). A

factual dispute is genuine only if, on the evidence of record, a reasonable fact finder could resolve the matter in favor of the non-moving party. *Lloyd's Food Products, Inc. v. El's Inc.*, 987 F.2d 766, 25 U.S.P.Q.2d 2027 (Fed. Cir. 1993).

Here, the facts are manifest and undisputed -- namely that Registrant submitted a statement of use that falsely claimed use of Registrant's mark on the various Class 25 goods in its application when in reality Registrant was not using the mark on such goods and indeed has never used the mark on such goods. As detailed below, the submission of such a false statement of use constitutes fraud on the Trademark Office that renders the resulting registration void *ab initio* in its entirety. As such, petitioner is entitled to summary judgment on its counterclaim for cancellation of Registrant's registration as a matter of law. *Torres v. Cantine Torresella S.r.l.*, 808 F.2d 46, 1 U.S.P.Q.2d 1483 (Fed Cir. 1986) (affirming the Board's grant of summary judgment for cancellation of registration for fraud); *General Car and Truck Leasing Sys. Inc. v. General Rent-A-Car Inc.*, 17 U.S.P.Q.2d 1398 (S.D. Fla. 1990) (affirming the Board's grant of summary judgment for cancellation of entire registration for fraud); *Medinol Ltd. v. Neuro Vasx, Inc.*, 67 U.S.P.Q.2d 1205 (TTAB 2003) (the Board *sua sponte* entered summary judgment for cancellation of entire registration for fraud).

B. Registrant's Misconduct Constitutes Fraud on the Office.

As the Federal Circuit has plainly stated, "[f]raud in procuring a trademark registration ... occurs when an applicant knowingly makes false, material representations of fact in connection with his application." *Torres,* 1 U.S.P.Q.2d at 1484. Moreover, this Board has repeatedly held that the submission of a false statement of use that claims use of a mark in commerce on goods identified in the application where the applicant knew or should have known that the mark was not in fact in use on such goods constitutes such a knowingly false and material representation. As

such, the submission of a false statement of use constitutes fraud on the Trademark Office. *Medinol*, 67 U.S.P.Q.2d at 1209-10; *Standard Knitting Ltd. v. Toyota Jidosha Kabushiki Kaisha*, 77 U.S.P.Q.2d 1917, 1926-28 (TTAB 2006); *accord Turbo Sportswear Inc. v. Marmot Mountain Ltd.*, 77 U.S.P.Q.2d 1152, 1155 (TTAB 2005) (a false statement in a use-based application that the mark is used on all the goods listed may give rise to a valid ground of fraud).

This Board's seminal decision in *Medinol* is directly on point. As in this case, the registrant in *Medinol* had submitted a "check the box"-type of statement of use with the required declaration signed by the registrant's President/CEO. In that statement of use, the registrant claimed that the mark was in use in commerce on "[t]hose goods/services identified in the Notice of Allowance in this application" -- i.e. "medical devices, namely, neurological stents and catheters." In reality, however, the mark was only in use on catheters and not stents. This Board held that such conduct amounted to fraud on the Trademark Office which rendered the entire registration void notwithstanding the registrant's subsequent attempt to delete "stents" from the registration. *Medinol*, 67 U.S.P.Q.2d at 1208-10.

C. Registrant's Subjective Intent is Irrelevant.

The registrant in *Medinol* had denied that it had acted with fraudulent intent when submitting its statement of use but this Board categorically rejected that defense and with it, any suggestion that the issue of the registrant's subjective intent should preclude summary judgment. "The appropriate inquiry is ... not into the registrant's subjective intent, but rather into the objective manifestations of that intent." *Medinol*, 67 U.S.P.Q.2d at 1209.

This Board noted that the registrant had signed the statement of use under penalty of "fine or imprisonment, or both, ... and [knowing] that such willful false statements may jeopardize the validity of the application or any resulting registration ...." The Board then stated:

> Statements made with such degree of solemnity clearly are -- or should be -- investigated thoroughly prior to signature and submission to the USPTO. Respondent will not now be heard to deny that it did not read what it had signed.
>
> The undisputed facts in this case clearly establish that respondent knew or should have known at the time it submitted its statement of use that the mark was not in use on all of the goods. Neither the identification of goods nor the statement of use itself were lengthy, highly technical, or otherwise confusing, and the President/CEO who signed the document was clearly in a position to know (or to inquire) as to the truth of the statements therein.
>
> Respondent's explanation for the misstatement (which we accept as true) -- that the inclusion of stents in the notice of allowance was "apparently overlooked" -- does nothing to undercut the conclusion that respondent knew or should have known that its statement of use was materially incorrect. Respondent's knowledge that its mark was not in use on stents -- or its reckless disregard for the truth -- is all that is required to establish intent to commit fraud in the procurement of a registration. While it is clear that not all incorrect statements constitute fraud, the relevant facts in this record allow no other conclusion. We find that respondent's material misrepresentations made in connection with its statement of use were fraudulent.

Id. at 1210.

This Board has subsequently reaffirmed its holding in *Medinol* in a number of both citable and uncitable decisions. In particular, this Board in *Standard Knitting* found that a registrant's submission of statements of use falsely alleging use on various Class 25 goods constituted fraud in the procurement of the resulting registrations and rendered them void. Once again, this Board rejected as irrelevant the registrant's contention that the false representations were the result of an honest mistake and not due to fraudulent intent.

> [The declarant]'s asserted mistake, assuming it truly was a mistake, was not a reasonable one. The language in the application that the mark "is now in use in commerce" is clear and its meaning is unambiguous. It was not reasonable for [the declarant] to believe that if the items of clothing were ever made or sold, even if the last sale took place 20 years ago, it would support a claim that the mark "is" in use on the goods.

Standard Knitting, 77 U.S.P.Q.2d at 1927.[1]

This Board then went on to hold that:

> The specific or actual intent of [a statement of use declarant] is not material to the question of fraud. As stated in *General Car and Truck Leasing Systems, Inc. v. General Rent-A-Car Inc.*, 17 U.S.P.Q.2d 1398, 1400 (S.D. Fla. 1990), "proof of specific intent to commit fraud is not required, rather, fraud occurs when an applicant or a registrant makes a false material representation that the applicant or a registrant knew or should have known was false."
>
> *Id.* at 1298.

Thus, in both *Medinol* and *Standard Knitting*, this Board has held that the submission of a false statement of use amounts to a knowingly false and material mispresentation of fact regardless of the declarant's specific or actual intent. *Cf. Maids to Order of Ohio, Inc. v. Maid-to-Order, Inc.*, Cancellation No. 92040571, slip op. at 17-22 (TTAB March 31, 2006) (registrant not guilty of fraud where declarant had reasonable basis for belief that services were offered in interstate commerce).

In any event, there is evidence in this case that Registrant's misstatement may have been intentional. In particular, Registrant submitted specimens of alleged use with its Statement of Use that were captioned "Class 25." *See* Exhibit A. If Registrant had not submitted such specimens of use, the examining attorney would presumably have questioned why specimens for Class 25 were not provided given that Registrant was asserting use in that class. See TMEP § 1109.09(b) ("The examining attorney must examine the specimen(s) to confirm that they show use of the subject matter as a mark on or in connection with the goods/services identified in the statement of use. ... In a multi-class application, the applicant must submit one specimen for each class of

---

[1] In the present case, Registrant cannot even claim such a good faith mistake as to the precise Class 25 goods on which the mark was used or when since it has admitted that it has never used the mark on any of the Class 25 goods listed in the registration.

goods/services in the statement of use before the statement of use can be approved."). In addition, as discussed below, Registrant's failure to amend its registration for more than two years after the certificate of registration issued is further evidence that the misstatement was intentional. *Medinol,* 67 U.S.P.Q.2d at 1210, n.12.

Moreover, the fraud in the present case is more mendacious than the conduct in either *Medinol* or *Standard Knitting* since in those cases, the registrants were at least using its mark on some of the goods in the class covered by the registrations. By contrast in this case, Registrant has never used the mark -- and consequently has mislead both the Trademark Office and the public -- as to its rights in an entire class of goods.

D. Registrant's Fraud Renders the Registration Void *Ab Initio* in its Entirety.

It is also well established that fraud in the procurement renders the resulting registration void *ab initio* in its entirety and the appropriate remedy is for the entire registration to be cancelled. *Medinol*, 67 U.S.P.Q.2d at 1208, 1210; *Standard Knitting Ltd.*, 77 U.S.P.Q.2d at 1928; *accord Turbo Sportswear*, 77 U.S.P.Q.2d at 1155, and *Grand Canyon West Ranch, LLC v. Hualapai Tribe*, Opp. No. 91162008, slip op. at 3 (TTAB March 17, 2006) ("The case law is clear that holding an application to be void is an appropriate remedy when the pleaded ground ... is fraud").

E. Registrant's Amendment of the Registration Cannot Cure the Fraud.

Registrant attempted to cure the fraud by belatedly seeking to amend the registration to delete the Class 25 goods. However, such efforts are to no avail. This Board has repeatedly held that fraudulent procurement renders the resulting registration void *ab initio* in its entirety. As such, no attempt to expiate the fraud by deleting the offending goods can have any effect. Indeed, this Board stated categorically in *Medinol* that "deletion of the goods upon which the mark has not yet been used does not remedy an alleged fraud upon the Office. If fraud can be shown in the

procurement of a registration, the entire resulting registration is void." *Medinol*, 67 U.S.P.Q.2d at 1208; *accord Standard Knitting,* 77 U.S.P.Q.2d at 1928 ("Fraud cannot be cured by the deletion of goods from the registrations"); *Turbo Sportswear*, 77 U.S.P.Q.2d at 1155 ("Fraud cannot be cured merely by deleting from the registration those goods on which the mark was not used at the time of the signing of a use-based application or a Section 8 affidavit"); *Grand Canyon*, slip op. at 7 n. 5. It also does not -- and should not -- matter for these purposes that the deleted goods are in Class 25 and that the remaining goods are in Class 3. The entire registration is tainted by the fraud and is rendered void.

Indeed, as noted in *Medinol*, if the rule were otherwise and registrants were able to avoid a finding of fraud simply by deleting the unused goods, they would have little incentive to tell the truth. To the contrary, registrants would be incentivized to mislead the Office -- and by extension the general public -- as to the scope of their rights because if necessary, they could merely delete the unused goods and "end up with no less than what they were entitled to claim in the first place, with no adverse consequences." *Medinol,* 67 U.S.P.Q.2d at 1207.

It is also telling that although Registrant knew (or should have known) that the representation as to use in Class 25 was false at the time it filed the statement of use and was subsequently reminded of the fraud when it received the certificate of registration bearing the inaccurate goods, Registrant did not seek to amend its registration for more than two years and then only after it had filed a Request for an Extension of Time to Oppose Petitioner's application. As such, this case is analogous with *Medinol* in which the registrant did not seek to amend its registration until almost two years after the registration was issued and in the context of an opposition proceeding. *Medinol*, 67 U.S.P.Q.2d at 1210, n. 12. As this Board found in *Medinol*,

Registrant's failure to correct the misrepresentation for more than two years clearly supports a finding that the misstatement was intentional. *Id.*

In short, the entire registration is the fruit of Registrant's poisoned application and Registrant's fraud renders it rotten to the core; no effort to cut away that poison can -- or should -- succeed. The registration must be cancelled in its entirety.

E. The Case Should be Suspended Pending the Board's Determination of Petitioner's Motion for Summary Judgment.

Rule 2.127(d) of the Trademark Rules provides that "[w]hen any party files ... a motion for summary judgment ... the case will be suspended by the Trademark Trial and Appeal Board with respect to all matters not germane to the motion and no party should file any paper that is not germane to the motion except as otherwise specified in the Board's suspension order." 37 CFR § 2.127(d); *see also* TBMP § 528.03.

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V. Conclusion

For the reasons set forth herein, the Board should grant Petitioner's motion for summary judgment and cancel Registrant's Registration No. 2,742,675. In the interim, the Board should suspend the proceedings with respect to all matters not germane to that motion.

Respectfully submitted,

Glenn A. Gundersen
Terence A. Dixon
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2929 Arch Street
Philadelphia, PA 19104-2808
(215) 994-4000

Attorneys for Applicant/Petitioner
ASPREY HOLDINGS LIMITED CORP.

Dated: April 12, 2006

Certificate of Mailing by Express Mail

I hereby certify that Applicant/Petitioner's Motion and Brief for Summary Judgment on Counterclaim for Cancellation is being deposited with the United States Postal Service as Express Mail, Post Office to Addressee, in an envelope addressed to: Trademark Trial and Appeal Board, U.S. Patent and Trademark Office, P.O. Box 1451, Alexandria, Virginia 22313-1451, on April 12, 2006.

Terence A. Dixon
Person Signing Certificate

Signature

April 12, 2006
Date of Signature

EV855692339US
Express Mail Number

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Applicant/Petitioner's Motion and Brief for Summary Judgment on Counterclaim for Cancellation has been duly served by mailing such copy first class, postage prepaid, to George Gottlieb, Esq., GOTTLIEB, RACKMAN & REISMAN, P.C., 270 Madison Avenue, New York, New York 10016-0601, on April 12, 2006.

Terence A. Dixon

Exhibit A

Statement of Use for Serial No. 75/981,311

(see attached copy)

JAMES REISMAN
MICHAEL I. RACKMAN
GEORGE GOTTLIEB
BARRY A. COOPER
DAVID S. KASHMAN
ALLEN I. RUBENSTEIN
JEFFREY M. KADEN
AMY B. GOLDSMITH
TIBERIU WEISZ
MARIA A. SAVIO

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RAYMOND B. CHURCHILL, JR.
RICHARD S. SCHURIN
STEVEN STERN

PATENT AGENT
ZOYA V. CHERNINA

March 24, 2003

File: 4543/3

Box ITU FEE
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202

Re: U.S. Trademark Application Serial No. 75/981,311
Mark: BOND NO. 9 in Classes 3 and 25
Applicant: Laurice & Co.

S I R:

We enclosed for filing in connection with the above-identified application the following:

X Statement of Use, With Declaration;
X Filing fee in the amount of $200.00 (@$100.00 per class);
X Specimens; and
X Return self-addressed, stamped postcard.

Please charge any additional fees to Deposit Account No. 07-1730.

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first Class Mail in an envelope to: Assistant Comm. for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513, on March 24, 2003

Madelin Rowland

Respectfully submitted,

Barbara H. Loewenthal
Attorneys for Applicant
GOTTLIEB, RACKMAN & REISMAN, P.C.
270 Madison Avenue
New York, New York 10016-0601
(212) 684-3900

4543/3

Statement of Use under 37 CFR 2.88, with Declaration

Mark : BOND NO. 9

Serial No.: 75/981,311

TO THE ASSISTANT SECRETARY AND COMMISSIONER OF PATENTS AND TRADEMARKS:

LAURICE & CO.
[Applicant]

OCTOBER 8, 2002
[Notice of Allowance Issue Date]

Applicant requests registration of the above-identified trademark in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. 1051 et. seq., as amended). Specimens showing the mark as used in commerce are submitted with this statement.

____ Check here if a Request to Divide under 37 CFR 2.87 is being submitted with this request.

Applicant is using the mark in commerce on or in connection with the following goods/services: (Check One):

_X_ Those goods/services identified in the Notice of Allowance in this application.

____ Those goods/services identified in the Notice of Allowance in this application **except**:

The trademark was first used in connection with the goods in Class 3, at least as early as October 28, 2002; was first used in interstate commerce in connection with the goods in Class 3, at least as early as October 28, 2002, and it is now in use in such commerce.

The trademark was first used in connection with the goods in Class 25, at least as early as December 31, 2002; was first used in interstate commerce in connection with the goods in Class 25, at least as early as December 31, 2002, and it is now in use in such commerce.

The mark is used in connection with the goods by applying it to the goods, and to packaging for the goods, and in other ways customary in the trade.

DECLARATION

The undersigned being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this Statement of Use on behalf of Applicant; he/she believes Applicant to be the owner of the mark sought to be registered, the trademark service mark is now in use in commerce; and all statements made of her own knowledge are true and all statements made on information and belief are believed to be true.

LAURICE & CO.

March , 2003 3/19/03.
[Dated]

By: Laurice Rahme
Name: Laurice Rahme
Title: President

S:\madelin\Forms\Statement of Use\BOND NO 9.wpd

Class 3


Bond no. 9
NEW YORK
9 BOND STREET NYC
680 MADISON AVENUE NYC
897 MADISON AVENUE NYC


Bond no. 9
NEW YORK
9 BOND STREET NYC
680 MADISON AVENUE NYC
897 MADISON AVENUE NYC

Class 25

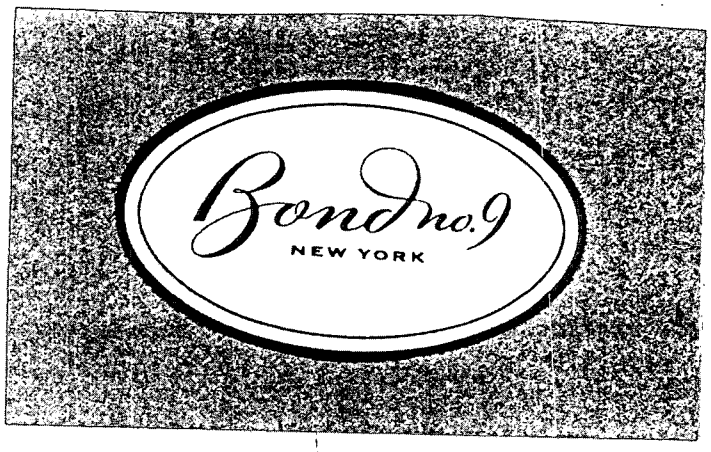

Exhibit B

Application for Amendment of Registration
for Registration No. 2,742,675

(see attached copy)

GOTTLIEB, RACKMAN & REISMAN, P.C.
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STEVEN STERN
YUVAL H. MARCUS

PATENT AGENT
ZOYA V. CHERNINA

September 1, 2005

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451
Attention: Trademark Service Division
Post Registration Branch

Re: Registrant: Laurice & Co.
Registration No. 2,742,675
Dated: July 29, 2003
Mark: BOND NO. 9

Dear Sir/Madam:

Enclosed is:

1. ■ Application for Amendment of Registration Under C.F.R. Section 2.173;

2. ■ Certified Copy of Registration No. 2,742,675; and

3. ■ Check in the amount of $100.00.

The Commissioner is authorized to charge any additional fees which may be required, or to credit any overpayment, to our Deposit Account No. 07-1730.

Respectfully submitted,

GOTTLIEB, RACKMAN & REISMAN, P.C.

Barbara Loewenthal

EXPRESS MAIL CERTIFICATE
Express Mail mailing label number
EV 731364631US
DATE OF DEPOSIT September 1, 2005

I HEREBY CERTIFY THAT THIS PAPER OR FEE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE "EXPRESS MAIL POST OFFICE TO ADDRESSEE" SERVICE UNDER 37 CFR 1 10 ON THE DATE INDICATED ABOVE AND IS ADDRESSED TO: COMMISSIONER FOR TRADEMARKS, P.O. BOX 1451, ALEXANDRIA, VA 22313-1451

Signature

[redacted]

09-02-2005
U.S. Patent & TMOfc/TM Mail Rcpt Dt. #39

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the Matter of Trademark Registration:

Registrant : Laurice & Co.

Registration No. : 2,742,675

Registration Date : July 29, 2003

Trademark : BOND NO. 9

Commissioner for Trademarks
P.O. Box 1451
Arlington, VA 22313-1451

Attention: Post Registration Branch
Director of Trademark Examining Operation

APPLICATION FOR AMENDMENT OF
REGISTRATION UNDER SECTION C.F.R. Section 2.173

S I R:

Laurice & Co., a New York Corporation, located and doing business at 9 Bond Street, New York, NY, requests that Registration No. 2,742,675 issued on July 29, 2003 be amended in accordance with C.F.R. Section 2.173 (a) by deleting Class 25 in its entirety from the identification of goods in the Registration so that the Registration is limited solely to Class 3.

For this purpose the Registrant hereby submits the requisite filing fee and original Certificate of Registration.

DECLARATION

The undersigned being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this Statement of Use on behalf of Applicant; he/she believes Applicant to be the owner of the mark sought to be

registered, the trademark service mark is now in use in commerce; and all statements made of her own knowledge are true and all statements made on information and belief are believed to be true.

8/29/05
[Dated]

By: Laurice Rahme
Name: Laurice Rahme
Title: President

S:\barbara\clients\Laurice & Co\amend.reg.wpd

1361693

THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office

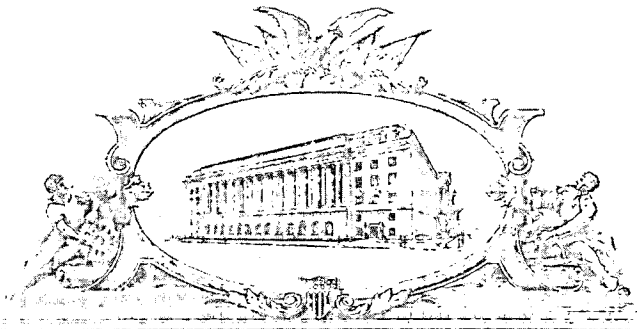
August 29, 2005

THE ATTACHED U.S. TRADEMARK REGISTRATION *2,742,675* IS CERTIFIED TO BE A TRUE COPY OF THE REGISTRATION ISSUED BY THE UNITED STATES PATENT AND TRADEMARK OFFICE WHICH REGISTRATION IS IN FULL FORCE AND EFFECT.

REGISTERED FOR A TERM OF *10* YEARS FROM *July 29, 2003*
SAID RECORDS SHOW TITLE TO BE IN: *Registrant*

By Authority of the
Under Secretary of Commerce for Intellectual Property
and Director of the United States Patent and Trademark Office

N. WOODSON
Certifying Officer



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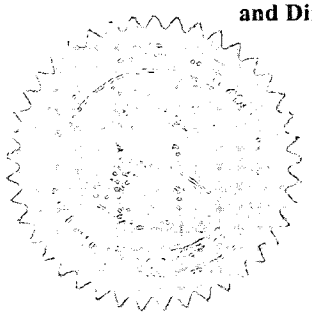

N. WOODSON
Certifying Officer

Int. Cls.: 3 and 25

Prior U.S. Cls.: 1, 4, 6, 22, 39, 50, 51, and 52

United States Patent and Trademark Office

Reg. No. 2,742,675

Registered July 29, 2003

TRADEMARK
PRINCIPAL REGISTER

BOND NO. 9

LAURICE & CO. (NEW YORK CORPORATION)
9 BOND STREET
NEW YORK, NY 10012

FOR: FRAGRANCES, NAMELY, PERFUMES, COLOGNES AND ROOM FRAGRANCES, IN CLASS 3 (U.S. CLS. 1, 4, 6, 50, 51 AND 52).

FIRST USE 10-28-2002; IN COMMERCE 10-28-2002.

FOR: CLOTHING, NAMELY, DRESSES, SKIRTS, PANTS, BLAZERS, SCARVES AND NECKTIES, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 12-31-2002; IN COMMERCE 12-31-2002.

SN 75-981,311, FILED 2-28-2001.

PAUL F. GAST, EXAMINING ATTORNEY